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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,648	10/25/2001	Paul M. Sand	1759.17238-FOR	6512

7590 06/30/2003  
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EXAMINER

COOLEY, CHARLES E

ART UNIT	PAPER NUMBER
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1723

DATE MAILED: 06/30/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/980,648

Applicant(s)

Sand

Examiner

Charles Cooley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance, except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4, 5, 6 6) ☐ Other:

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## OFFICE ACTION

1. This application has been assigned to Technology Center 1700, Art Unit 1723 and the following will apply for this application:

a. Please direct all written correspondence with the correct application serial number for this application to Art Unit 1723.

b. Telephone inquiries regarding this application should be directed to the Technology Center 1700 receptionist at ☎(703) 308-0651 or to the Examiner at ☎(703) 308-0112. Official facsimile correspondence filed before a final office action should be transmitted to ☎(703) 872-9310. Official facsimile correspondence which responds to a final office action should be transmitted to ☎(703) 872-9311. All *post-allowance* papers (e.g., Information Disclosure Statements, Rule 312 Amendments, petitions, etc.) should be mailed to **Box Issue Fee** or submitted via facsimile to ☎(703) 308-5864.

### ***Priority***

2. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. § 119(e).

### ***Information Disclosure Statement***

3. Note the attached PTO-1449 forms submitted with the Information Disclosure Statements filed 10 SEP 2002, 16 OCT 2002, and 6 MAY 2003.

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### ***Drawings***

4. Applicant should verify that (1) all reference characters in the drawings are described in the detailed description portion of the specification and (2) all reference characters mentioned in the specification are included in the appropriate drawing Figure(s) as required by 37 CFR 1.84(p)(5).

### ***Specification***

5. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

6. The abstract is acceptable.

7. The title is acceptable.

### ***Claim Rejections - 35 U.S.C. § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-4, 6-11, and 14-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Hays et al. (US 5,549,381).

The patent to Hays et al. (US 5,549,381) discloses a mixer comprising a receptacle 73; mixing element 80; actuator with a drive member 42 and a driven member 40; the mixing element 80 being a rotatable apertured paddle; plunger 72; stand 11; dispenser 76 with a fitting 75 and nozzle 78 and tube 77A; linkage 41; and the drive member 42 being operable manually.

10. Claims 1-12 and 14 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 96/40424.

WO 96/40424 discloses a mixer comprising a receptacle 30; mixing element 94; actuator with a drive member (e.g., a motor - Page 5, line 27-35) and a driven member 18; the mixing element 94 being a rotatable multiple apertured paddle (Fig. 9); plunger 104; stand 12; dispenser 190 with a fitting 196 and nozzle or tube 198; and drive train linkage (Page 5, line 30 which refers to gear(s)).

11. Claims 1-4, 6-8, and 12-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Murray (US 5,348,391).

The patent to Murray (US 5,348,391) discloses a mixer comprising a receptacle 24; mixing element 74; actuator with a drive member 48 and a driven member 64; the

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mixing element 74 being a rotatable apertured paddle; plunger 26; stand 12; dispenser (col. 6, lines 43-46); linkage 38; planetary gear drive train system (Figs. 1-2); and the drive member 48 being operable manually.

12. Claims 1-4, 6, 8, 9, 10, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by WO 86/06618.

WO 86/06618 discloses a mixer comprising a receptacle 4; mixing element 7; actuator with a drive member (Page 6, lines 2-3) and a driven member 8; the mixing element 7 being a rotatable paddle; plunger 5; dispenser with a fitting 18 and nozzle or tube 19.

13. Claims 1-5 and 8-15 are rejected under 35 U.S.C. § 102(e) as being anticipated by Barker et al. (US 6,033,105).

The patent to Barker et al. (US 6,033,105) discloses a mixer comprising a receptacle 22; mixing element 29; actuator with a drive member and a driven member 39 (Fig. 3A); the mixing element 29 having rotatable apertured paddles 35; dispenser with a fitting 67 and nozzle 65 and tube 23; linkage (proximate 39 in Fig. 3A); planetary gear drive train system (Fig. 28); and the drive member 39 being operable manually.

14. Claims 1-5 and 12-15 are rejected under 35 U.S.C. § 102(a) as being anticipated by DE 29922445.

DE 29922445 discloses a mixer comprising a receptacle 1; mixing element 33; actuator with a drive member 300 and a driven member 320; the mixing element 33

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being a rotatable multiple apertured paddle; linkage 30; planetary gear drive train system (Fig. 2); and the drive member 300 being operable manually.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Charles Cooley whose telephone number is ☎ (703) 308-0112.

17. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1700 receptionist whose telephone number is ☎ (703) 308-0651.

Dated: 25 June 2003

A handwritten signature in dark ink, appearing to read "Charles C", is written over a horizontal line.

**Charles Cooley  
Primary Examiner  
Art Unit 1723**